



## GOA REAL ESTATE REGULATORY AUTHORITY

101, 1<sup>st</sup> Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001Goa  
www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in

1) **F.No:3/RERA/Complaint(23)/2018 / 275** **Date: 16/02/2024**

**Clifford F. D'Mello,**  
H. No. 6/8,  
Sonarbhat, Saligao,  
Bardez- Goa.

..... Complainant

V/s

**Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.)**

1. H. No. 135/C, Zoriwado,  
Davorlim, Navelim,  
Salcete- Goa.
2. Shop No. 3, Tolleband,  
Davorlim, Navelim,  
Salcete- Goa.

..... Respondent

2) **F.No:3/RERA/Complaint(50)/2019**

**Rajesh Lobo,**  
591 A-2-3- Rajendra Apartment,  
Ground floor L.J. Cross Road No. 1,  
Mahim (West), Maharashtra,  
Mumbai- 400016.

..... Complainant

V/s

**Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.)**

1. H. No. 135/C, Zoriwado,  
Davorlim, Navelim,  
Salcete- Goa.
2. Shop No. 3, Tolleband,  
Davorlim, Navelim,  
Salcete- Goa.

..... Respondent

**ORDER**  
**(Dated 15.02.2024)**

This order disposes of the matter of registration of project to be registered under Section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act').

2. It is the case that the above two complaints were filed against a common respondent, Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.).
3. The Complaint No. -3/RERA/Complaint(23)/2018 (Clifford F. D'Mello V/s Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.) was filed for Refund of Principal amount with interest. An order was passed on 01/07/2019 and the respondent was directed to Refund the amount of Rs. 25,00,000/- (Rupees Twenty five lakhs only) plus interest within one month from the date of receipt of the letter from applicant. Thereafter, another order was passed on 23/12/2019, the Respondent directed to pay an amount of Rs. 25,00,000/- (Rupees Twenty five lakhs only) with interest at the rate of 10% per annum from 22/06/2016 till its realization, failing which, further order would follow.
4. In Complaint No. -3/RERA/Complaint(50)/2019 (Rajesh Lobo V/s Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.) was filed for Refund of Principal amount with interest due to non completion of work. An order was passed on 02/03/2020 and the respondent was directed to pay an amount of Rs. 25,00,000/- (Rupees Twenty five lakhs only) to the complainant with interest at the rate of

10% per annum from 06/01/2016 till its realization and in addition to costs of Rs. 1,00,000/-.

5. The aforesaid orders dated 23/12/2019 passed in Complaint No. - 3/RERA/Complaint(23)/2018 and order 02/03/2020 passed in Complaint No. - 3/RERA/Complaint(50)/2019 have been forwarded to Revenue Officer for execution and recovery.
6. On perusing the material on record further, the project details showed that area of the real estate project covers an area of more than 500 sq mts and number of apartment proposed to be developed exceeds eight inclusive of all phases.
7. Letters dated 02/06/2023 and 26/06/2023 were sent to the promoter and the promoter was directed to get his project "Owner's Pride", Varca, Goa, registered with Goa RERA after submitting the requisite documents and paying the necessary fee. However no application for registration of the project was received so far.
8. As per Section 3 of The Real Estate (Regulation And Development) Act, 2016 all ongoing project at the time of commencement of the Act which have not received the completion certificate are required to obtain registration under the said Act. In the above case, the promoter/ respondent has marketed the project without registering it with the Goa Real Estate Regulatory Authority. The Section 3(1) of the said Act is as below:-

**“3. Prior registration of real estate project with Real Estate Regulatory Authority.-**

- (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:
- (2) Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:”

9. From the above observations, it is clear that respondent/promoter has violated the provisions of Section 3(1) of the Act. The punishment for non registration under Section 3 is dealt under Section 59(1) of the said Act which is inter alia quoted as below:-

**“59. Punishment for non-registration under Section 3.-** (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.

10. Hearing in the said matter was scheduled on 17/11/2023, 06/12/2023, 28/12/2023, and 18/01/2024. Notices were issued to the respondent/ promoter by registered AD Post. The respondent/ promoter though duly served remained absent and hence was marked ex parte.
11. Because of the reasons stated above, I pass the following:-

**ORDER**

12. In the instant case, since the project was ongoing on the date of the commencement of the RERA Act, it is within the purview of Section 3 of the RERA Act and required registration, the respondent was therefore directed vide letters dated 02/06/2023 and 26/06/2023 issued by Goa RERA to get his project "Owner's Pride", Varca, Goa, registered after submitting the requisite documents and paying necessary fee. However, no application for registration of the project was received.
13. Since, the respondent/promoter has failed to comply to the above directions, he will be liable for further proceedings under Section 59(2) of the said Act. For the convenience, Section 59(1) and (2) of the said Act is transcribed below:-

**"59. Punishment for non-registration under section3.-**


(1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent of the estimated cost of the real estate project as determined by the Authority.

(2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent of the estimated cost of the real estate project, or with both.

14. Under Section 59(2), it has been provided that non-compliance of the order, decisions, directions issued under section 59(1) or if the promoter continues to violate the provisions of Section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent of the estimated cost of the real estate project, or with both and hence the same is to be tried and disposed of by the Metropolitan Magistrate or a Judicial Magistrate of the first class as per Section 80(2) of the said Act which is as follows:-

“80.(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.”

15. In view of above, a complaint will be filed before the Judicial Magistrate first class having jurisdiction over the matter.

  
15/02/2024  
**S. Kumaraswamy, IAS (Retd.)**  
**Chairperson, Goa RERA**

**To,**

**1) Mr. Clifford F. D'Mello,**

H. No. 6/8,  
Sonarbhat, Saligao,  
Bardez- Goa.

**2) Mr. Rajesh Lobo**

591 A-2-3- Rajendra Apartment,  
Ground floor L.J. Cross Road No. 1,  
Mahim (West), Maharashtra,  
Mumbai- 400016.

**3)Mr. Agnelo Cardoso (M/s Nathan Construction Pvt. Ltd.)**

(i) H. No. 135/C, Zoriwado,  
Davorlim, Navelim,  
Salcete- Goa.

(ii) Shop No. 3, Tolleband,  
Davorlim, Navelim,  
Salcete- Goa.